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STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

February 10, 2006

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

PSF No.: 06HD-

Hawaii

Approval in Principle of Acquisition of Interest in
Privately-Owned Land at Waiakea, South Hilo, Hawaii,
Tax Map Key: (3) 2-4-08:03.

APPLICANT AGENCY:

Department of Land and Natural Resources, Division of Forestry and
Wildlife.

PRIVATE LANDOWNER:

CARLSMITH BALL LLP, a limited liability law partnership LLP, with
an undivided 0.50 interest as Fee Owner, IVAN MICHAEL LUI-KWAN,
husband of Frances Patricia Lui-Kwan, with an undivided 0.49947990
interest, HAWAII COUNTY ECONOMIC OPPORTUNITY COUNSEL, a Hawaii
private non-profit organization, with an undivided 0.00011622
interest; PEARSON FOUNDATION, INC., a Hawaii private non-profit
organization, with an undivided 0.00005789 interest; BOY SCOUTS OF
AMERICA, ALOHA COUNCIL, a Hawaii non-profit organization, with an
undivided 0.00005789 interest; and the ROMAN CATHOLIC CHURCH IN
THE STATE OF HAWAII, a Hawaii non-profit corporation, with an
undivided 0.00028810 interest, whose business and mailing address
is

IVAN LUI-KWAN et al.
834 Puuikena Drive
Honolulu, HI 96821
and
CARLSMITH BALL LLP
ASB Tower
1001 Bishop Street, Suite 2100
Honolulu, HI 96813

LEGAL REFERENCE:

Sections 107-10, 171-11 171-30, and Chapter 198, Hawaii Revised
Statutes, as amended.

LOCATION:

Privately owned lands situated at Waiakea, South Hilo, Hawaii,
identified by Tax Map Key: (3) 2-4-08:03, as shown on the attached

AREA:

ZONING:

CURRENT USE:

PUBLIC PURPOSE:

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

FAIR MARKET VALUE AND CONSIDERATION IF ANY:

APPLICANT REQUIREMENTS:

1) Pay for the appraisal costs to determine the value of the subject property;

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- 2) Provide survey maps and descriptions for the privately-owned property according to State DAGS standards and at Applicant's own cost;
- 3) Obtain a title report for the privately-owned property at Applicant's own cost and subject to review and approval by the Department;
- 4) Pay for and conduct a Phase I environmental site assessment and, if this Phase I identifies the potential for hazardous materials release or the presence of hazardous materials, conduct a Phase II environmental sampling and analysis plan and perform any and all remediation, abatement and disposal as may be warranted and as satisfactory to the standards required by the Federal Environmental Protection Agency and/or the State Department of Health, all at no cost to the State and to the satisfaction of the Department.

REMARKS:

DESCRIPTION. The Carlsmith Trust Property consists of 1335.980 acres, more or less, located between 2400 and 3800 ft. elevations on the windward slopes of Mauna Loa on the island of Hawaii. Adjacent to the Waiakea Forest Reserve to the south and west, and private forestlands to the north and east, the unencumbered parcel is part of the larger watershed area of Mauna Kea and Mauna Loa. A valuable native koa forest which comprises about 550 acres of the Carlsmith property has apparently never been harvested for its valuable hardwood resources. A recent overflight and hike through adjacent areas indicate a diverse native flora in the lowland wet forest section which remains remarkably free of invasive alien species that invade and dominate neighboring areas.

NEED FOR ACQUISITION. A variety of threatened and endangered resident plant and animal species (e.g., Hawaiian hoary bat-*Lasiurus cinereus semotus*, Hawaiian hawk-*Buteo solitarius*, Hawaiian honeycreeper, 'amakihi-*Hemignathus virens*) have been documented in adjacent areas, indicating similar likely species resident on the subject property. In addition, an adjacent parcel has been re-zoned to allow for subdivision and development. If left unmanaged, the native forest on the subject property will almost certainly eventually be invaded by alien species, threatening important habitats for these threatened and endangered species.

Therefore, it is important to bring this area under the control and management of the Division of Forestry and Wildlife (DOFAW) in order to protect this valuable native ecosystem in perpetuity. DOFAW's intention is to eventually acquire fee title for the entire property to allow its permanent addition to the State's Natural Area Reserve System or forest reserve.

FUNDING SOURCE. DOFAW has applied for a U.S. Fish and Wildlife Service (USFWS) Recovery Lands Acquisition (RLA) grant intended to support habitat protection for threatened and endangered species and has already obtained preliminary approval to support acquisition of fee interest and a conservation easement on the

subject property. The RLA grant will provide \$875,000 towards the purchase price of the subject property, subject to an additional minimum 25% of non-Federal matching funds. To this end, \$375,000 from a private source has been offered by Hawaii Island Land Trust (HILT) as non-Federal match.

ACQUISITION STRUCTURE. How this acquisition will be structured remains to be determined and will be based, in part, on appraisal results and further negotiations with HILT, USFWS, and the Seller.

In one scenario DNLR/DOFAW would amend and resubmit its grant proposal to allow the RLA funds to be passed through as a grant to HILT who would contribute funds for the match and acquire fee title in the property. USFWS has indicated this amendment appears acceptable. In turn, HILT would agree to immediately donate a conservation easement to the State/DLNR with an option to purchase the fee title. State/DLNR would make its best efforts to raise an amount equivalent to the HILT match to accomplish this purchase within a certain time period. Meantime, HILT would enter into a surrender agreement with State/DLNR to take over management of the property until the State/DLNR can pay its contribution to purchase the fee title and transfer 100% ownership to the State/DLNR. Since the State/DLNR cannot guarantee that funding will be secured, however, HILT would need to agree to either hold the land in its present condition or donate it to the State/DLNR should the option to purchase not be exercised by the State/DLNR.

In a second scenario DLNR/DOFAW would use the RLA grant to purchase the conservation easement directly from the Seller, with both grant and match funds deposited in an escrow account to complete the transaction.

Other acquisition structures/scenarios may be possible, depending on the outcome of the appraisal of the subject property, its timber resource, and the conservation easement.

The decision of which structure is most expedient for the Seller and of best value to the State/DLNR will be made after an evaluation of the appraisal results and consultation with the USFWS regarding what is allowable under the RLA grant program, and further negotiation with HILT and the Seller. Additionally, DLNR-DOFAW has committed to provide funding for the planned appraisal on which these decisions will be based.

Due to timing issues on this matter, and because this is only a request for approval in principal, no agency comments were sought. Agency comments will be sought if staff proceeds with obtaining final approval from the Land Board for this acquisition.

RECOMMENDATION: That the Board:

1. Provide approval-in-principle for the acquisition of interest in the Carlsmith Trust Property.

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2. Approve in principle the above-described acquisition of interest under the terms and conditions cited above which are by this reference incorporated herein, provided that the details of the proposed acquisition shall be submitted to the Board for final approval prior to documentation.
3. Authorize the Chairperson to prescribe other terms and conditions as may be necessary to carry out the intent of the Board and to best serve the interests of the State.

Respectfully Submitted,

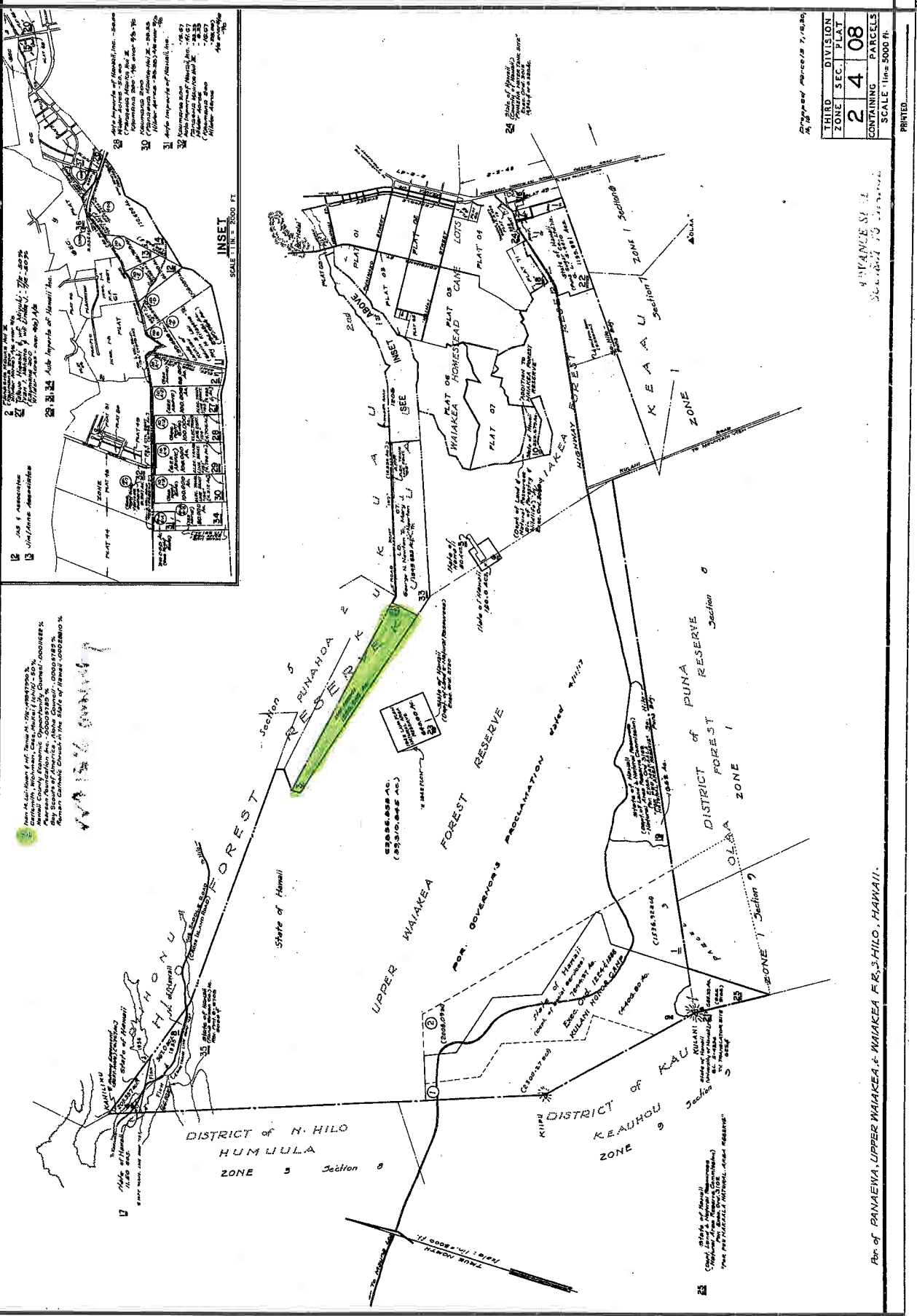
Barbara J. Lee
MT Barbara J. Lee
Project Development Specialist

APPROVED FOR SUBMITTAL:

Peter T. Young
Peter T. Young, Chairperson

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THIRD	DIVISION
2	4
0	8
CONTAINING PARCELS	
SCALE: 1 inch = 500 ft.	

ADVANCE SHEET
SUBJECT TO CORRECTION

Part of PANAHEWA, UPPER WAIKĀEA & WAIKĀEA F.B.S. HILO, HAWAII.

EXHIBIT A